

# **EXHIBIT 40**

## **Filed Under Seal**

## Preliminary Review

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### Incident Details

UOF # 2062/23  
 Occured Date 04/22/2023  
 Injury Class A  
 Inmate 18 or Younger No  
 Immediate ID Referral  
 Class A UOF Yes  
 Actual or Alleged Blows to Head Yes  
 Actual or Alleged Kicking No  
 Actual or Alleged Use of Instrument of Force No  
 Inmate Was in Restraints No  
 Prohibited Restraint Hold(s) No  
 Video Surveillance Malfunction No  
 Presence of Unexplained Facts Yes  
 Direct Referral from Facility No  
 Prior UOF Violation OATH Plea No  
 Evidence of Staff Collusion No  
 Other Full ID Circumstances Yes

### Video

Video Captured Yes

### Remarks

Investigator's Justification for Determination UOF# 2062-23  
 Facility: GRVC

### Synopsis

On April 22, 2023, at approximately 0615 hours in GRVC Housing area 10A Captain [REDACTED] was observed speaking to Person In Custody (PIC) [REDACTED] [REDACTED] at the door of cell [REDACTED] [REDACTED]. Captain [REDACTED] lefts and stood at the officer's desk. Over the next several minutes, multiple PICs approached cell [REDACTED] and spoke in the direction of the cell door before walking away. Captain [REDACTED] left the housing area and entered the A station [REDACTED]. PIC [REDACTED] cell door visibly opened and closed several times [REDACTED]. Several PICs noticed the cell door opening and closing, then grabbed onto the cell door and forced it open while PIC [REDACTED] attempted to hold it shut by holding onto the bottom of the door ([REDACTED]). PIC [REDACTED] ran out of his cell, PICs [REDACTED]

chased PIC [REDACTED] and grabbed onto him, throwing strikes to various areas of his body. Officer [REDACTED] ran to the group and deployed (4) four applications of her chemical agent [REDACTED]. The chemical agent did not achieve its desired effect and various PICs continued to strike PIC [REDACTED] with closed fist punches, stomps, kicks, and institutional equipment and Officer [REDACTED] deployed another application towards the various PICs ([REDACTED]). Captain [REDACTED] entered the housing area ([REDACTED]) The PICs continued to assault PIC [REDACTED] hitting him to the head and upper body with metal pans. Captain [REDACTED] motioned for PIC [REDACTED] to get up from the floor and began walking toward the housing area door. Several other PICs remained surrounding PIC [REDACTED] and while trying to exit the housing area, PIC [REDACTED] was hit in the head with a metal food pan, stomped on, picked up off the ground, dragged, struck with closed fist punches and a garbage can was thrown at him while Captain [REDACTED] and Officer [REDACTED] looked on ([REDACTED]). Captain [REDACTED] continued the escort out of the area, a PIC with a cane struck PIC [REDACTED] to the upper torso area, several PICs started striking PIC [REDACTED] with closed fist punches and Captain [REDACTED] grabbed onto the PICs and moved them away from PIC [REDACTED] before exiting the area ([REDACTED]). PIC [REDACTED] complied with cuffing procedures and was escorted out of the area to the main clinic. Additional staff and the probe team arrived in the housing area, secured the housing area, secured the combative PICs, and escorted them to the main intake. PIC [REDACTED] was seen by medical staff then escorted to a holding pen inside of the main intake, terminating the incident.

## Photographic Evidence

The facility provided one profile photograph (refusals) of PICs

PIC [REDACTED] and [REDACTED] are listed in the COD and the facility did not generate incident photographs for them.

## Video Evidence

The following video evidence was reviewed from April 22, 2023, 0600 hours to 0715 hours and depicted the incident as narrated above.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

A Handheld Recorder was observed on Genetec Video being utilized by a member of Probe team staff Officer [REDACTED]. However, this handheld video was unable to be located with the facility handheld files. An email was generated requesting this file.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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Staff/PIC injuries

Injury to Inmate Report (FY23/3472) noted on April 22, 2023, at approximately 0815 hours, PIC [REDACTED] was produced for prompt medical attention, sustained multiple contusions, [REDACTED] to the body, left [REDACTED] wrap to left [REDACTED] sling, and ice pack. [REDACTED] was transferred to Bellevue hospital and as per medical he sustained a lumber spine fracture, left pinky finger fracture, right foot fracture, nasal fracture, and post-concussive syndrome.

Injury to Inmate Report (FY23/3483) noted on April 22, 2023, at approximately 1220 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3476) noted on April 22, 2023, at approximately 1115 hours, PIC [REDACTED] was produced for prompt medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3487) noted on April 22, 2023, at approximately 1240 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3488) noted on April 22, 2023, at approximately 1204 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3485) noted on April 22, 2023, at approximately 1300 hours, [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3489) noted on April 22, 2023, at approximately 1202 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3491) noted on April 22, 2023, at approximately 1156 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3490) noted on April 22, 2023, at approximately 1200 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3491) noted on April 22, 2023, at approximately 1158 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury [REDACTED] hours [REDACTED] (FY23/3513) noted on April 22, 2023, at approximately 1450 was produced for delayed medical attention, had no visible dical attention.

Inju [REDACTED] report (FY23/3474) noted on April 22, 2023, at approximately 0950 hours [REDACTED] was produced for prompt medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3501) noted on April 23, 2023, at approximately 1100 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3516) noted on April 24, 2023, at approximately 1510 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3517) noted on April 24, 2023, at approximately 1535 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3518) noted on April 24, 2023, at approximately 1521 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3548) noted on April 25, 2023, at approximately 1535 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3515) noted on April 24, 2023, at approximately 1455 hours, PIC [REDACTED] was produced for prompt medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3512) noted on April 24, 2023, at approximately 1435 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Injury to Inmate Report (FY23/3514) noted on April 24, 2023, at approximately 1448 hours, PIC [REDACTED] was produced for delayed medical attention, had no visible injuries, and refused medical attention.

Various PICs during incident were seen more than four (4) hours after the Use of Force incident and produced for delayed medical due to multiple PICs being involved in this incident.

There were no reported staff injuries by COD or the facility.

Accuracy of UOF Classification:

No injuries to staff were reported for this incident. However, PIC [REDACTED] sustained multiple contusions and bumps to the body, left hand and foot swelling. PIC [REDACTED] transferred to Bellevue hospital and as per medical he sustained a lumber spine fracture, left pinky finger fracture, right foot fracture, nasal fracture, and post-concussive syndrome. Therefore, this incident is accurately classified as an "A" Use of Force. The accuracy of this classification will be assessed during further investigation.

PIC statements:

On April 24, 2023, Investigators [REDACTED] and [REDACTED] at approximately 1251 hours in BHPW 15 East Room #26 interviewed PIC [REDACTED]. PIC [REDACTED] provided a statement on BWC that in sum and substance detailed the following: PIC [REDACTED] was transferred from multiple facilities until he ended up in the GRVC Main Intake. PIC [REDACTED] was there inside of 9 pen for 7 hours. During this time staff threatened him and told him if he continued to act up that they would put him in a housing area with his opposition. PIC [REDACTED] alleged that they dragged him and used force to bring him to GRVC housing area 10A [REDACTED] cell and once they got into the cell staff started to beat him up, banged his head, and threw him on top of the bedframe. While in the cell he didn't eat for two days, and he started flooding the housing area and a female Correction officer told him that he was going to get set up. Two days later a Captain told the PICs in the area that she was about to let him out of his cell. When he was let out of cell, he fought multiple PICs and they struck him with a pan, a cane, and various objects until he made his way to the housing area gate. He was escorted to intake, held in a cell for several hours bleeding and was denied medical.

PIC [REDACTED] agreed to sign HIPAA. The Allegations made by PIC [REDACTED] will be addressed during further investigation.

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**Staff Reports:**

Staff reports were reviewed and were not consistent with the video evidence. Captain [REDACTED] depicted in her Use of Force report that she utilized chemical agents towards multiple PICs that were assaulting PIC [REDACTED]. However, a review of Genetec Video did not capture Captain [REDACTED] utilizing her chemical agent during this incident. Officer [REDACTED] submitted a Use of Force Witness report that in sum and substance detailed his actions in escorting PIC [REDACTED] out of the area during this incident. However, his report failed to accurately describe the incident and did not include that he responded to the area with Captain [REDACTED] and her actions during the incident. These discrepancies will be addressed during further investigation.

**Unavoidable/Avoidable and Facility Rapid Review:**

The Rapid Review conducted by Warden [REDACTED] determined that this incident was unavoidable and procedural errors were identified. Officer [REDACTED] is a newly assigned officer. Officer [REDACTED] will be shown the video of the incident to address all the deficiencies in the area. The cell door / pantry door / janitor's closet were unsecured and the officer should have turned on her BWC. In Addition, chemical agents were utilized a total of 4x however the PIC(s) would not stop their aggression. Captain [REDACTED] will be suspended for failure to supervise. The captain was observed in the area failing to supervise and lacked a sense of urgency to remove the victim out of the area. Captain [REDACTED] was made subject of a (14) fourteen-day suspension [REDACTED] May 3, 2023.

**Conclusion:**

Based on the evidence collected above, it is recommended that the case be referred for further investigation. PIC [REDACTED] alleged that Captain [REDACTED] et him up and allowed the PICs in housing area 10A to assault him. It was observed on Genetec Video that PIC [REDACTED] cell door kept opening, despite PIC [REDACTED] repeatedly pulling the door in attempts to keep it closed. PIC [REDACTED] cell door being opened gave several PICs in the area the ability to assault him. In addition, PIC [REDACTED] alleged that the day he arrived in GRVC, he was dragged by staff to GRVC Housing area 10A, dragged to cell [REDACTED], and staff banged his head on the metal bed frame.

**Conclusion**

Staff Reassignment During Investigation	No
DOI Referral for Staff	No
DOI Referral for Inmate	No
Injury Properly Classified	Yes
Review End Date	05/22/2023
Workflow	
DDI Intervention	
Workflow Action	Approve Preliminary Review (initiate ID Investigation)
Created By	

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Created Date

Updated By

Updated Date

[REDACTED]  
05/26/2023 07:48 PM

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